THE HON'BLE SRI JUSTICE L. NARASIMHA REDDY

WRIT PETITION No. 27073 of 1998

DATED: 06.03.2006

Between:

Guda Narsi Reddy.

... PETITIONER

AND

Joint Collector and Additional District Magistrate and others.

... RESPONDENTS

ORDER:

This Writ Petition is filed challenging the proceedings dated, 19.02.1993, issued by the Mandal Revenue Officer, Bommalaramaram Mandal, Nalgonda District, 3rd respondent herein, in exercise of the power under Section 5-A of the Andhra Pradesh Rights in Land and Pattadar Pass Books Act, 1971 (for short 'the Act'), and the subsequent proceedings issued by respondents 1 and 2 affirming the same.

The petitioner states that he purchased the land in Survey Nos.33,36 and 37 of Bommalaramaram Village, Nalgonda District, admeasuring 22.37 gutnas, from the original owners, in the year 1957, under an un-registered sale deed. He also claims to have been issued the certificate of validation of sale, under Section 5-A of the Act, by the 3rd respondent on 18.08.1991, in respect of Ac.13.23 guntas of land. The petitioner states that when he sensed interference with the possession over his land

by the 4th respondent and others, he filed O.S.No.55 of 1979 on the file of the District Munsif Magistrate, Bhongir, and that the suit was decreed on 07.03.1984. The petitioner complains that the 3rd respondent issued orders under Section 5-A of the Act on 09.02.1993, in favour of the 4th respondent, over an extent of Ac.4.08 guntas of land, and on the basis of the same, the 4th respondent started interfering with the possession of his land. The appeal and the revision preferred by the petitioner, against the same, before respondents 2 and 1 respectively were also rejected.

The 4th respondent filed a counter affidavit, stating that the land purchased by him is different from the one, in respect of which the petitioner was issued validation certificate, and that there are no merits in the Writ Petition.

Heard Sri J.Kanakaiah, the learned counsel for the petitioner, the learned Government Pleader for Revenue, appearing for respondents 1 to 3, and Sri V.Narasimha Goud, the learned counsel for the 4th respondent.

There is a serious dispute among the parties not only as to the total extent of the Survey Numbers, but also as to the possession over the respective extents of land. The sales made in favour of the petitioner, on the one hand, and the 4th respondent, on the other, are for different extents of land and at different points of time. The following Table would be helpful, in understanding the nature of dispute:

Survey Total Extent Extent Extent Extent Extent

No. (according to (as per the orders (said to have been (in respect of (in respect of which

the petitioner) passed by the 2nd purchased by the which certificate certificate under

respondent) petitioner) under Section 5-A Section 5-A was

was issued in favour issued in favour

of petitioner) of 4 respondent)

(Ac-gts) (Ac-gts) (Ac-gts) (Ac-gts) (Ac-gts)

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33 19.25 4.20 9.00 3.00 1.20

36 14.05 5.08 7.08 4.08 1.00

37 12.24 8.15 6.15 6.15 2.00

Total 45.54 18.03 22.23 13.23 4.20

From the above table, it is clear that though the petitioner claims to have purchased Ac.22.23 guntas of land, he obtained certificate under Section 5-A of the Act only in respect of Ac.13.23 guntas of land. The question as to whether he is in possession of the rest of the land has to be verified in the relevant proceedings. This Court cannot record any finding on those disputed questions of fact.

The petitioner can be said to have had any grievance, if only the total extent of land in three Survey Numbers was purchased by him, and despite the same, the 4th respondent was issued the validation certificate over an extent of Ac.4.08 guntas of land. When the different extents of land in three Survey Numbers put together is more than what was validated in favour of the petitioner and even what was purchased by him, he cannot have grievance about the order, dated 09.02.1993, passed by the 3rd respondent in favour of the 4th respondent or the orders passed by respondents 1 and 2, rejecting the revision and appeal respectively, preferred by the petitioner. The petitioner is said to have already obtained a decree for perpetual injunction. That, however, was in the year 1979. Several developments have taken place, subsequently.

From the facts referred to above, this Court is of the opinion that the dispute between the petitioner and the 4th respondent mainly relates to identification and demarcation of the respective lands said to have been purchased by them. Unless it is established that there is any overlap of the land purchased by the 4th respondent, the petitioner cannot be said to have had any grievance about the impugned orders. In case, it emerges that the land purchased by the 4th respondent overlaps the one purchased by the petitioner, the aggrieved parties have to work out their remedies by filing suits for declaration or any other similar remedy.

For the foregoing reasons, the Writ Petition is disposed of, leaving it open to the petitioner, to apply for demarcation of the respective extents of land claimed by him, and in case, it emerges that there is any overlap of the land purchased by the 4th respondent, it shall be open for him to seek proper remedy, such as, by filing a suit for declaration. *Status quo* obtaining as on today shall be maintained for a period of four (4) weeks. In the meanwhile, the parties shall get their respective extents of land demarcated, in accordance with the provisions of the Andhra Pradesh Survey and Boundaries Act. There shall be no order as to costs.

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06.03.2006

Note: Issue C.C. in three days.

(B/o)

Jsu

Survey No. (according to the petitioner)	Total Extent (as per the orders passed by the 2nd respondent)	Total Extent (said to have been purchased by the petitioner)	Total Extent (in respect of which certificate under Section 5-A was issued in favour of petitioner)	Total Extent (in respect of which certificate under Section 5-A was issued in favour of 4 respondent)
33	19.25	4.20	9.00	3.00 1.20
36	14.05	5.08	7.08	4.08 1.00
37	12.24	8.15	6.15	6.15 2.00
Total	45.54	18.03	22.23	13.23 4.20